HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 216 of 2006 (SS)

Smt. Chaita Devi w/o Sri Mohan Singh Negi
village Dangi, Tehsil Rudraprayag,
District Rudraprayag .....Petitioner

Versus

1. Chairman/Managing Director, Allahabad Bank, 2 Netaji Subhash Marg, Calcutta
2. Manager, Allahabad Bank, 2 Netaji Subhash Marg, Calcutta
3. Senior Manager, Allahabad Bank, Ghantaghar Dehradun. ..... Respondents

Sri B. M. Pingal, Advocate for the petitioner
Sri S.K. Jain Advocate for the respondents.

Dated: 28.2.2006

Hon'ble Rajesh Tandon, J.

Heard Sri B.M. Pingal, Counsel for the petitioner and Sri S.K. Jain Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 1.8.2003, issued by respondent no. 2 and a further a writ of mandamus directing the respondents to pay family pension to the petitioner.

Briefly stated the husband of the petitioner namely Sri M.S. Negi was posted as Daftari in Allahabad Bank and retired on 31.5.1989. After his retirement he was getting monthly pension from the Bank. The husband of the petitioner has made a representation on 3.7.1997 to the respondent for extending new pension scheme to him but the respondents paid

no heed to the request of the petitioner's husband. The husband of the petitioner died on 10.7.2003 and thereafter the petitioner has made several representations to the respondents authorities to grant her family pension but the respondents did not pay any heed to the request of the petitioner. On 1.8.2003 respondent no. 2 has sent a letter to the petitioner informing her that family pension could not be paid to the petitioner as the name of her husband has been deleted from the record.

The grievance of the petitioner is that her husband in his life time made several representations to the respondents for extending new family pension scheme to him but the respondents acted arbitrarily and did not sanction family pension to the petitioner.

It has been held in State of Kerala and other VS. M. Padmanabhan Nair, 1985 (1) S.C.C. 429, by the Hon'ble Supreme Court that pension is a valuable right.and property and the petitioner has a right to claim by virtue of the continuous services rendered by him. The observations of the Apex Court are quoted below:-

"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable right and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

The aforesaid judgment of the Apex Court has also been followed in Dr. Uma Agarwal Vs. State of U.P. & another JT 1999 (2) SC 359 and it has been held as under:-

"Now-a-days, several writ petitions are being filed in this court and various High Courts seeking relief for disbursement, or retrial benefits, because of inordinate delays in payment of these benefits. As Krishna Iyer J. stated in State of Mysore Vs. C.R. Sheshadri & others (1974(4) S.C.C. 308), a retired government official is sensitive to delay in drawing monetary benefits. And to avoid posthumous satisfaction of the pecuniary expectation of the superannuated public servant- not unusual in government , it is becoming necessary to issue directions, in several cases, for early payment of these dues. In yet another case in State of Kerala and others Vs. M. Padmanabhan Nair (1985 (1) SCC 429 this court had occasion to point out that usually 'the delay occurs by reason of non-production of the L.P.C. (Usually the delay occurs by reason of non-production of the L.P.C. (last pay certificate) and the N.L.C. (no liability certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over-emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the

current market rate should commence at the expiry of two months from the date of retirement."

Thus in view of the aforesaid observations, liberty is given to the petitioner to make a fresh representation to the respondents within 15 days after the receipt of the certified copy of this order, who shall consider the claim of the petitioner for grant of family pension within one month thereafter.

Accordingly, the writ petition is disposed of. No order as to costs.

Rajesh Tandon, J.

Dated: 28.2.2006
*Dhyani